

§ 115.31

(B) Work on the Contract commenced before a bond is Executed;

(C) The time for completion of the Contract exceeds 12 months;

(D) The Contract includes a provision for liquidated damages that exceed \$1,000 per day;

(E) The Contract involves asbestos abatement, hazardous waste removal, demolition, or timber sales; or

(F) The bond would be issued under a surety bonding line approved under § 115.33.

[61 FR 3271, Jan. 31, 1996, as amended at 77 FR 41665, July 16, 2012; 79 FR 2087, Jan. 13, 2014]

§ 115.31 Guarantee percentage.

(a) *Ninety percent.* SBA reimburses a Prior Approval Surety for 90% of the Loss incurred and paid if:

(1) The total amount of the Contract at the time of Execution of the bond is \$100,000 or less; or

(2) The bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals, on behalf of a qualified HUBZone small business concern, or on behalf of a small business owned and controlled by veterans or a small business owned and controlled by Service-disabled veterans.

(b) *Eighty percent.* SBA reimburses a Prior Approval Surety in an amount not to exceed 80% of the Loss incurred and paid on bonds for Contracts in excess of \$100,000 which are executed on behalf of non-disadvantaged concerns.

(c) *Contract increase to over \$100,000.* If the Contract amount increases to more than \$100,000 after Execution of the bond, the guarantee percentage decreases by one percentage point for each \$5,000 of increase or part thereof, but it does not decrease below 80%. This provision applies only to guarantees which qualify under paragraph (a)(1) of this section.

(d) *Contract or Order increases exceed Applicable Statutory Limit.* If the Contract or Order amount is increased above the Applicable Statutory Limit after Execution of the bond, SBA's share of the Loss is limited to that percentage of the increased Contract or Order amount that the Applicable Statutory Limit represents multiplied by the guarantee percentage approved

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by SBA. For example, if a contract amount increases to \$6,800,000, SBA's share of the loss under an 80% guarantee is limited to 76.5% [$6,500,000/6,800,000 = 95.6\% \times 80\% = 76.5\%$].

(e) *Contract or Order decrease to \$100,000 or less.* If the Contract or Order amount decreases to \$100,000, or less, after Execution of the bond, SBA's guarantee percentage increases to 90% if the Surety provides SBA with evidence supporting the decrease and any other information or documents requested.

[61 FR 3271, Jan. 31, 1996, as amended at 64 FR 18324, Apr. 14, 1999; 66 FR 30804, June 8, 2001; 72 FR 34599, June 25, 2007; 74 FR 36110, July 22, 2009; 79 FR 2087, Jan. 13, 2014]

§ 115.32 Fees and Premiums.

(a) *Surety's Premium.* A Prior Approval Surety must not charge a Principal an amount greater than that authorized by the appropriate insurance department. The Surety must not require the Principal to purchase casualty or other insurance or any other services from the Surety or any Affiliate or agent of the Surety. The Surety must not charge non-Premium fees to a Principal unless the Surety performs other services for the Principal, the additional fee is permitted by State law, and the Principal agrees to the fee.

(b) *SBA charge to Principal.* SBA does not charge Principals application or Bid Bond guarantee fees. If SBA guarantees a Final Bond, the Principal must pay a guarantee fee equal to a certain percentage of the Contract amount. The percentage is determined by SBA and is published in Notices in the FEDERAL REGISTER from time to time. The Principal's fee is rounded to the nearest dollar, and is to be remitted to SBA with the form submitted under either § 115.30(d)(1) or (2). See paragraph (d) of this section for additional requirements when the Contract amount changes.

(c) *SBA charge to Surety.* SBA does not charge Sureties application or Bid Bond guarantee fees. Subject to § 115.18(a)(4), the Surety must pay SBA a guarantee fee on each guaranteed bond (other than a Bid Bond) within 60 calendar days after SBA's approval of the Prior Approval Agreement. The fee